



February 10, 2022

Senate Committee on the Judiciary
United States Senate
Hart Senate Office Building, Room 216
120 Constitution Ave NE
Washington, D.C. 20002

RE: Letter in Support of S. 3538, EARN IT Act of 2022

Dear Chairman Durbin, Ranking Member Grassley, and Honorable Members of the Senate Committee on the Judiciary,

CHILD USA is the leading national, nonprofit think tank dedicated to advancing children's civil rights. It is the leading organization in the United States to track and study child sexual abuse statutes of limitations ("SOL") through its Sean P. McIlmail SOL Reform Institute. As an organization deeply committed to child protection, we support the Earn It Act of 2022, which was designed for survivors and by survivors of harm generated by Child Sex Abuse Material (CSAM).

February 8, 2022 is #SaferInternetDay but it is also the 26th anniversary of the creation of Section 230 of the Communications Decency Act (CDA 230). The CDA has been consistently interpreted by the courts as providing broad blanket immunity from all civil liability. With the Earn It Act, survivors will finally have a chance to seek justice and hold technology companies like Meta, Twitter, Omegle, and others accountable for allowing CSAM to spread on their platforms. Decades of impunity under CDA 230 must end.

In 2020, **65.4 million CSAM images and video files** were reported to the National Center for Missing and Exploited Children's CyberTipline, the highest number of reports ever received in a single year. At any given time, there are at least **one million child sex offenders** searching for CSAM online. Now is the time for lawmakers to act and address the unchecked proliferation of CSAM and protect children.

The fallacy that EARN IT Act is anti- free speech legislation is designed to fear monger us away from the progress CSAM victims rightfully deserve. The [New York v. Ferber](#) case makes it clear that child pornography is not protected by the first amendment.

In the same way, the EARN IT Act is designed to create privacy rights, not destroy them. Scanning for known CSAM using PhotoDNA and other tools should not be controversial. For example, we allow providers to scan for viruses/malware all the time. Scanning for known images is not any more invasive. Those claiming this is an invasion of privacy rights fail to understand how this technology really works. Dr. [Hany Farid](#) at Berkely explains this blatant misunderstanding by anti-EARN IT Act groups. CSAM is the ultimate invasion of privacy. Tech companies have the tools to protect kids online, but simply refuse to use these tools because it cuts into the bottom line.



The EARN IT Act will create a standard of care and bring checks and balances into this unregulated industry by allowing survivors to enter the court room doors that CDA 230 has slammed shut for decades. Please find a statement in support of EARN IT from the award winning CSAM survivor's group, the [Phoenix 11](#), linked [here](#).

In the words of these brave survivors, those that do not stand up in support of the EARN IT Act are “part of the problem.” Survivors of some of the most heinous crimes in the world are demanding justice, and we hear them louder than ever. **It is time to shift the burden to remove these materials onto the companies that profit off the spread of CSAM in the first place.** Please do not hesitate to contact us if you have questions or if we can be of assistance in any way on other child protection issues.

Sincerely,



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